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IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No 261 of 1985

For Approval and Signature:

Hon'ble MR.JUSTICE A.R.DAVE
and
Hon'ble MR.JUSTICE D.A.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

COMMISSIONER OF INCOME TAX

Versus

VISHWAKARMA KELWANI MANDAL

Appearance:

MR BB NAIK for MR MANISH R BHATT for Petitioner

NOTICE SERVED for Respondent No. 1

CORAM : MR.JUSTICE A.R.DAVE
and
MR.JUSTICE D.A.MEHTA

Date of decision: 14/06/2001

ORAL JUDGEMENT

(Per : MR.JUSTICE A.R.DAVE)

At the instance of the revenue, the following two questions have been referred to this court for its opinion under the provisions of sec. 256(1) of the Income-tax Act, 1961 by the Income Tax Appellate Tribunal, Ahmedabad Bench 'A'.

1. Whether, on the facts and in the circumstances of the case, the Tribunal was right in law in holding that the provisions of sec. 13(1)(b) of the Income-tax Act, 1061 were not applicable and the assessee trust was entitled to exemption as claimed?

2. Whether the assessee trust was created for the benefit of a particular religious community who are designated as the "Gurjar Suthar Community or Caste" and therefore, it forfeited the exemption available under sec. 11(1) on account of the provisions of sec. 13(1)(b) of the Income-tax Act, 1961?

2. Learned advocate Shri B.B. Naik has appeared for the applicant-revenue whereas nobody has appeared for the respondent-assessee though the respondent assessee has been duly served.

3. Learned advocate Shri Naik has submitted that the first question has already been answered by this Court in case of the assessee itself in I.T.R. No. 195/80 as well as in I.T.R. No. 281/82.

4. This Court has decided the said question in the affirmative i.e. against the revenue and in favour of the assessee.

5. In view of the ITRs referred to hereinabove and in respectful agreement with the said judgments, we answer the first question in the affirmative and the second question in the nagative i.e. in favour of the assessee and against the revenue.

The reference stands disposed of accordingly with no order as to costs.

(A.R. Dave, J.)

(D.A. Mehta, J.)

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